T&M King Farms, LLC
P.O. Box 29
Colusa, CA 95932
(530) 723-3119
bking@pacgoldag.com

June 30, 2026

Kristal Davis Fadtke

Environment Program Manager

California Department of Fish and Wildlife

Re: T&M King Farms Comments on Proposed Contract for Administration of Public Benefits for the Sites Reservoir Project

Dear Ms. Davis Fadtke:

These are supplemental comments to our June 29, 2026, on the Draft Contract for Administration of Public Ecosystem Benefits (CAPB) for the Sites Reservoir Project. They focus on compliance with Fish and Game Code §5937, protection of instream beneficial uses, the historical and legal character of the Colusa Basin Drain (CBD), our 1920 easement rights, and the overlooked USDA NRCS Wetland Reserve Program (WRP) easements along the CBD.

1. **The Colusa Basin Drain Below Davis Weir in Colusa County Has Been a Natural Waterway Since Immemorial Time**

The CBD is NOT an artificial drainage ditch as some have suggested. There are parts of the CBD within the jurisdiction of RD108 that have purely excavated but the six-mile stretch of the CBD between Davis Weir Bladder Dam and Balsdon Dam has always been an important natural waterway that was excavated in 1921 in the footprint of the natural waterway. The attached 1867 map prepared by the California State Surveyor General designated the area as “Swamp and Overflow Lands,” confirming its historical character as a natural wetland and overflow system. I have also attached a modification of this map

showing where our wetlands are located which includes the adjacent channel of the CBD. I have also attached excerpt from the 1880 Will S. Green History of Colusa County detailing how water moved across this six-mile portion of the natural water way from what was known as the "Upper Basin" to the "Lower Basin" at the time. Finally, I have included excerpts from the 1964 Colusa Basin Investigation report by the DWR which details how the natural flows moved on this portion of the CBD. Please note that these attachments were included in the public record for the Sites Water Rights Proceedings and have captions and notations relevant to those Proceedings. The 1920 Easement and Decisions 683 & 1590 were included as attachments to our June 29, 2026 Comments.

2. **The State Water Resources Board Conducted Investigations and Determined that the CBD was Essentially Natural and Recognized Instream Beneficial Rights for This Portion of the CBD.**

SWRCB Decision 683 (see attachments from June 29, 2026, Comments for all three referenced documents referenced) recognized that the CBD was "essentially natural," having been dug from a pre-existing natural waterway. This historical context is reinforced by our 1920 easement with Reclamation District 2047 (RD 2047) and the County of Colusa. In exchange for granting RD 2047 the right to excavate the CBD channel across our land, we received the right to use all water that flows naturally in the channel and an explicit promise that flows would not be obstructed. Additionally, SWRCB Decision 1590 expressly recognized and protected instream beneficial uses on the CBD, including for a diverter located approximately one mile below Davis Weir. These historical and legal facts establish that the CBD carries protected natural and instream flow interests that cannot be arbitrarily eliminated by unlicensed dams such as the Davis Weir Bladder Dam.

3. **The Ongoing Violations of §5937 Caused by the Davis Weir Bladder Dam and Instream Rights at Below Davis Weir Bladder Dam Have Occurred Since 2010 and are Continuing**

The Davis Weir bladder dam (operated by Glenn Colusa Irrigation District) prevents water flows and has resulted in numerous incidences of zero flows which continue for weeks on some occasions. This has been documented by MBK who prepared an analysis on behalf of the Sites Authority. In the attached MBK Engineers Report presented to the Colusa Basin Drain Managers Group on August 4, 2023 (which included Ali Forsythe of the Sites

Authority) GCID prevented flows over the Davis Weir Bladder Dam resulting in 358 days of zero flow below the structure from in the 12-year period of the Report encompassing the years from 2010–2022. Please refer to the Table on pdf Page 13 of the Report entitled "Historical Operations of the Davis Weir" and the smaller table on the lower right part of the page entitled "Number of 0 Flow Days by WY Type (2010 -2022)" This results in an average of roughly 30 days per year since the Bladder Dam was constructed in 2010, concentrated in drier water year types. **These zero-flow operations directly violate:**

- **Fish and Game Code §5937, which requires the owner of any dam to allow sufficient water at all times to pass to keep fish below the dam in good condition.**
- **The 1920 easement's prohibition on obstructing natural flows.**
- **The instream beneficial uses recognized in Decision 1590.**
- **Public Trust doctrine and Article X, Section 2 of the California Constitution**.

We have documented fish mortality and other aquatic life losses during these periods (See attached Photos Taken on May 14, 2024, at the Dam Site and at the Hahn Road Bridge crossing downstream.) The Bladder Dam's design — maintaining upstream levels while eliminating downstream leakage — directly obstructs flows in a manner inconsistent with the historical character of the CBD, our easement rights, and statutory fish protection obligations.

4. **We Urge the CDFW To Acknowledge and Protect the USDA NRCS WRP Easements on the Colusa Basin Drain**

The draft CAPB does not address the existence of several thousand acres of USDA NRCS Wetland Reserve Program (WRP) easements along the CBD. These permanent conservation easements were acquired with federal funds to protect and restore wetland habitat. T&M King Farms, LLC has conveyed an NRCS WRP easement on approximately 250 acres of wetlands within the six-mile reach of the CBD below Davis Weir. Zero-flow operations at Davis Weir directly impair the habitat values these easements were purchased to protect by dewatering the channel, causing fish mortality, and degrading wetland conditions. As the trustee agency for the State's fish and wildlife resources and the administrator of public ecosystem benefits under the CAPB, CDFW has a duty to ensure that Project-related operations do not impair these protected conservation interests.

5. **Requiring Continuous Minimum Flows Over Balsdon Weir Are Legally Required and are a Feasible Path Forward**

The SWRCB Draft Water Rights Decision for Sites currently requires that flows from Stone Corral Creek and Funks Creek remain in the CBD. These natural tributary inflows, supplemented by a modest allocation of Sites environmental/public benefit water (consistent with the CAPB's Wetland Enhancement purpose), can readily provide continuous minimum bypass flows over the Davis Weir Bladder Dam.

It is important to understand that flows over the Davis Weir Bladder Dam which will traverse the six-mile reach to Balsdon Weir continue downstream to the Knights Landing Outfall Gates and the Sacramento River. The only flows lost would be to additional percolation and evapotranspiration for this six-mile portion of the CBD and only for the time period when no flows currently exist – which according to MBK is approximately 30 days on average per year. Assuming conservative numbers and summer evapotranspiration rates – this is not a significant additional consumptive use and would be substantially less than average flows from Stone Corral and Funks Creek flows that will be impounded by the Reservoir upstream.

Assuming the Colusa Basin Drain is approximately 75 wide for the six-mile reach between the Davis Weir Bladder Dam and Balsdon Dam the surface area is approximately 54.55 acres. To calculate expected consumptive use for 54.55 acres for additional percolation and evapotranspiration of 30 days a year – we have to assume percolation rates and choose an evapotranspiration time period.

Using conservative July–August rates:

- Evapotranspiration: ~0.30 in/day → ~1.36 AF/day
- Percolation through clay soils: ~0.20 in/day → ~0.91 AF/day

Combined losses ≈ 2.3 AF/day when flowing. On the ~30 zero-flow days per year on average, a modest continuous minimum of 5 c.f.s. would require only about 365 AF/year total (including losses). At 10 c.f,s., the figure is approximately 660 AF/year. These volumes are modest and can be met using flows already required to stay in the CBD plus a small portion of Sites environmental water. Even if more flows were required to protect the instream rights and riparian habitat, they would be minimal and all excess flows would be recaptured as the flows over Balsdon Weir combine with the flows from the Dunnigan Pipeline

Providing continuous minimum flows would:

- **Satisfy FGC §5937 and protect fish.**
- **Honor the 1920 easement, Decision 683 and instream beneficial uses recognized in Decision 1590.**
- **Protect and enhance habitat on NRCS WRP easements (including our 250-acre wetland easement).**
- **Strengthening the overall public ecosystem benefits delivered under the CAPB by improving conditions for species using the CBD and enhance the aquatic food chain by improving seasonal wetland habitat on the CBD.**

Requests

1. CDFW should contact the USDA NRCS regarding the thousands of acres of WRP easements on the CBD, including the ~250 acres in the six-mile reach below Davis Weir. Coordination should address compliance with §5937, instream beneficial uses, the 1920 easement rights, and the conservation purposes of the WRP easements.
2. Incorporate continuous minimum bypass flow requirements at Davis Weir (with coordination at Balsdon Weir) into the Project Implementation Actions and Adaptive Management Plan as a condition of the Wetland Habitat Enhancement public benefit.
3. Direct that Stone Corral and Funks Creek flows (already required to remain in the CBD), together with a modest allocation of Sites environmental water, be used to meet these minimum flows.
4. Require monitoring and reporting of flows and habitat conditions below Davis Weir, with specific attention to impacts on WRP easement areas, as part of the Annual Summary Reports and five-year Review Reports.
5. Include findings in the final CAPB that protecting instream flows in the CBD — consistent with §5937, Decisions 683 1590, the 1920 easement, the historical character of the waterway (1867 mapping, Decision 683, Will S. Green Excerpt, DWR Colusa Basin Investigation Excerpt), and NRCS WRP easements — is necessary to achieve net public ecosystem improvement.

Maintaining minimum flows in the CBD is fully compatible with — and would meaningfully strengthen — the public ecosystem benefits the CAPB is intended to deliver. I urge CDFW to address these issues before finalizing the Contract.

We welcome any on-site investigations by CDFW regarding this six-mile portion of the CBD and would very much welcome CFDW Staff to conduct a site visit on our wetlands. We are flooding for the first time to plant watergrass today and plan to work with the NRCS to complete plantings and install an additional pump this year.

Thank you again for your time and consideration.

Sincerely,

Ben King

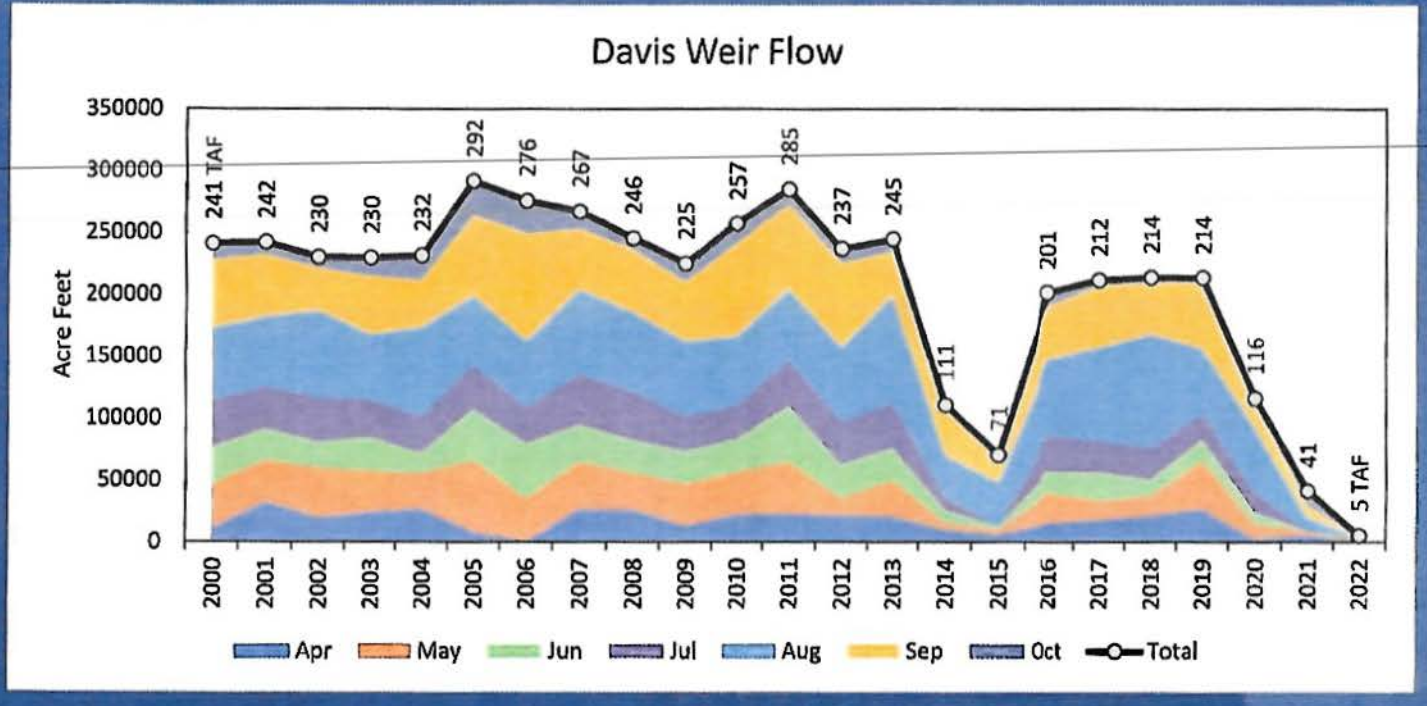
Manager – T&M King Farms, LLC

KIN6 69/12

- Operated by GCID
- Around 2010 GCID upgraded to a bladder dam
  - Maintains water levels upstream
  - Limits/eliminated leakage that occurred with the prior weir
- Remote monitoring and measurement

Historic Operations of the Davis Weir

Historic Operations of the Davis Weir



Monthly Average Flow by WY Type (CFS)	W	AN	BN	D	C
Apr	323	248	363	327	164
May	497	691	383	512	151
Jun	536	545	339	383	137
Jul	452	560	475	514	164
Aug	976	911	1109	1075	469
Sep	1087	935	891	670	404
Oct	190	302	204	156	76

Number of 0 Flow Days by WY Type (2010-2022)*	W	AN	BN	D	C
Apr	0	0	2	2	28
May	6	0	6	4	42
Jun	5	0	0	1	62
Jul	0	0	0	0	64
Aug	0	0	0	0	12
Sep	0	0	0	0	13
Oct	12	0	4	32	63

*During April and May 2023 there were 9 and 1 zero flow days, respectively.

Manager's Group Presentation

Colusa Basin Drain

August 4, 2023

KING-69

KING 69/2

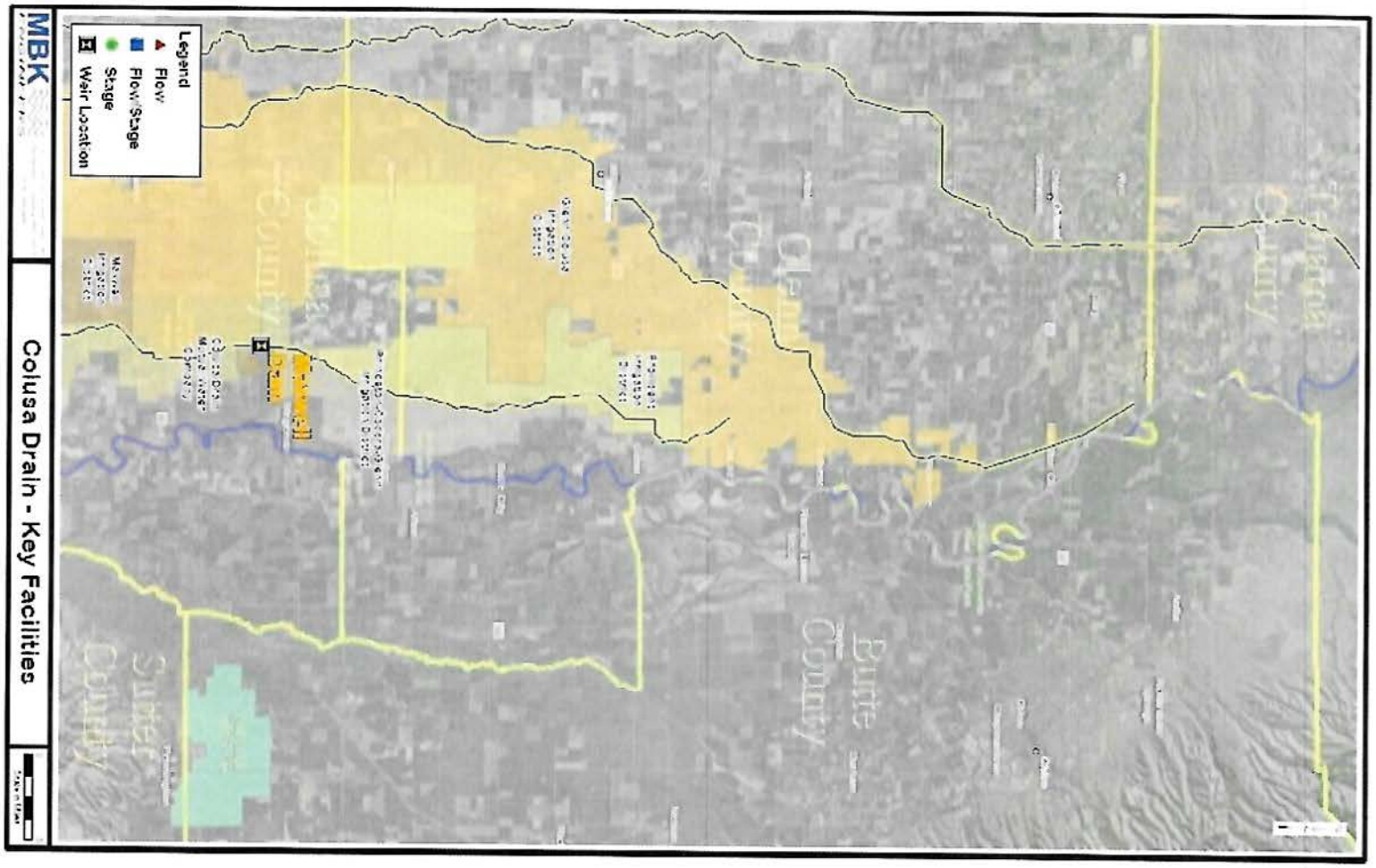
Background of Colusa Drain

Map

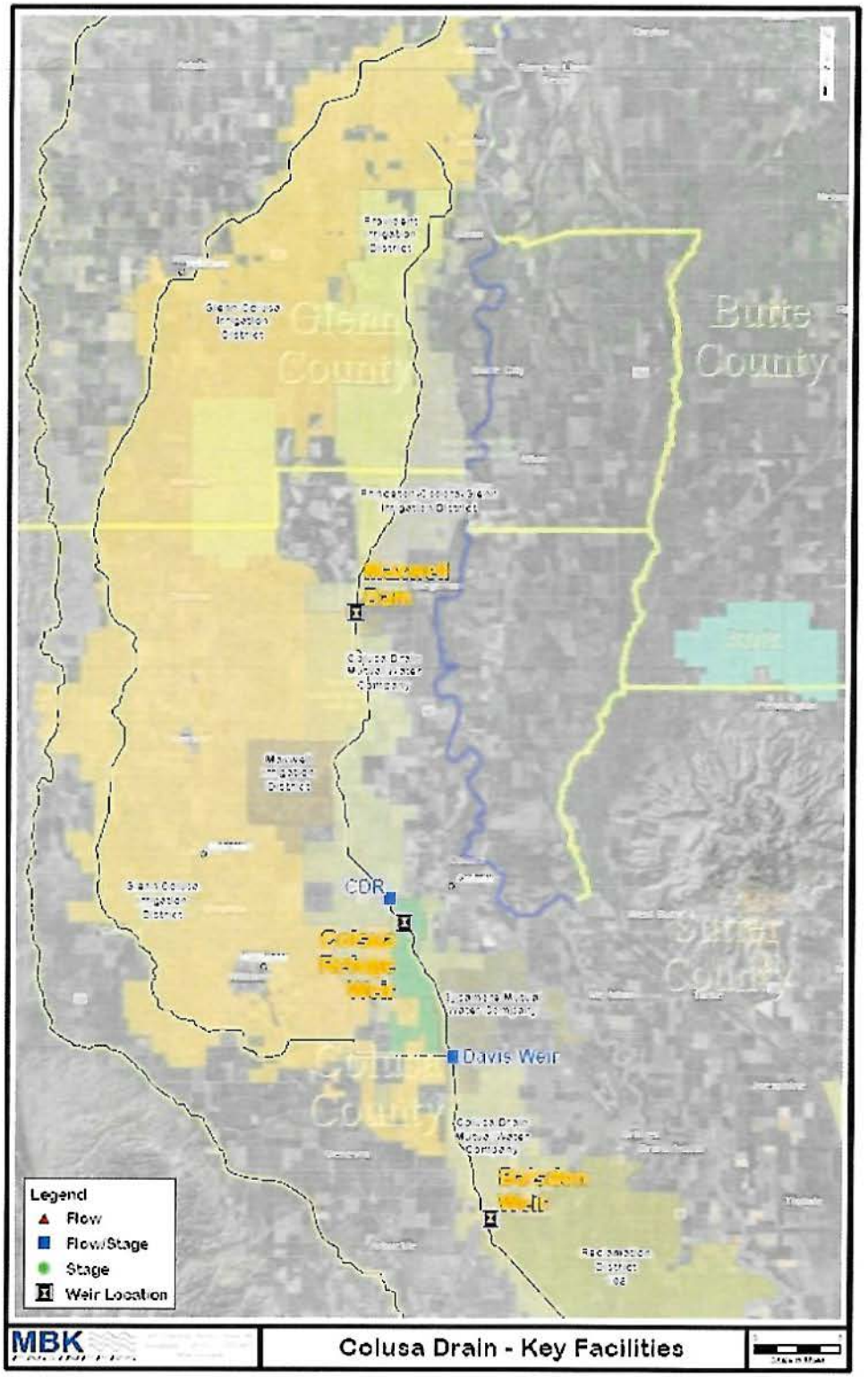
Background

- 5 Party Agreement
- Sacramento River Settlement Contracts
- Colusa Drain MWC – USBR Contract
- Colusa Drain MWC – GCID Agreement

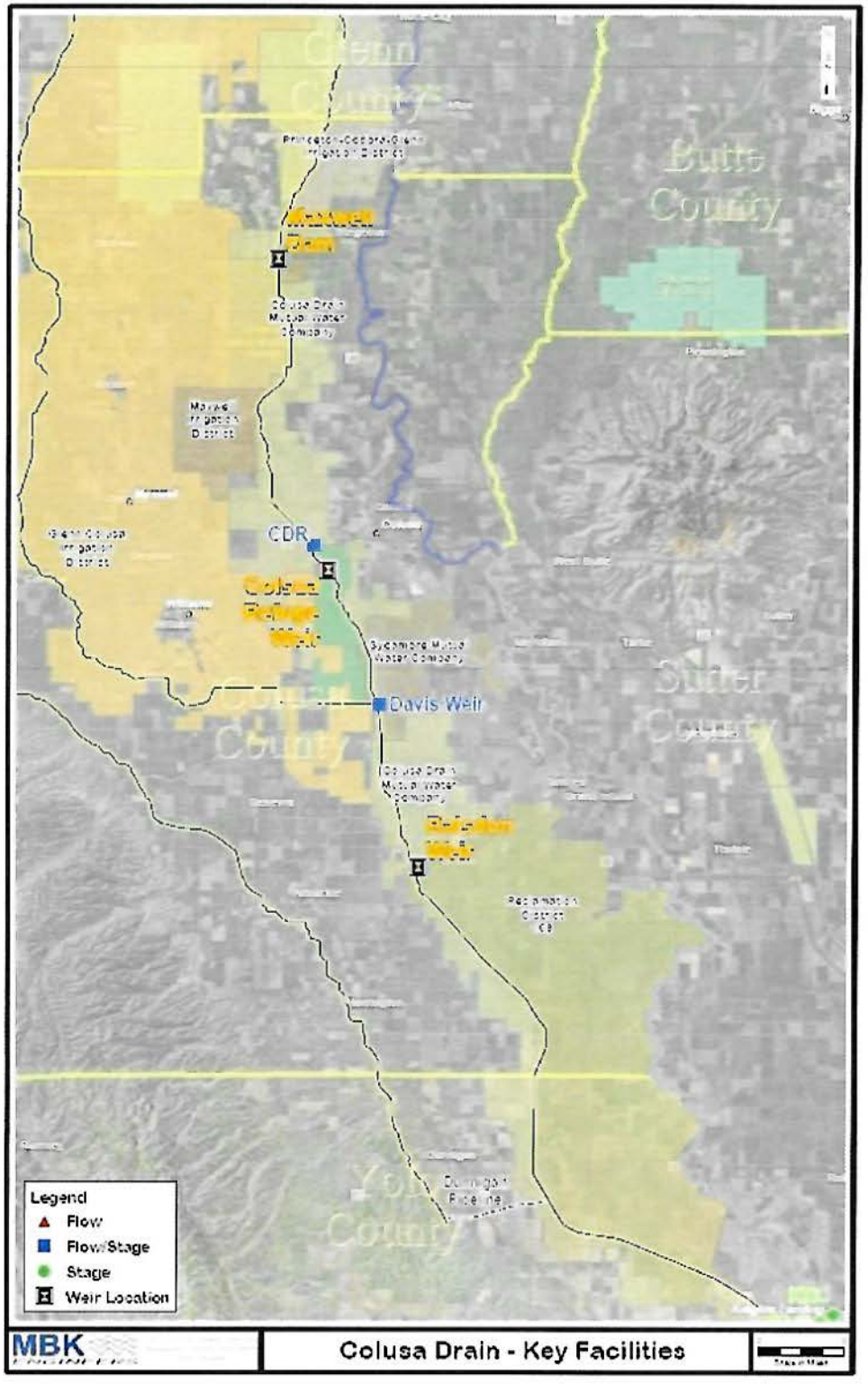
KING 69/3


MBK
Colusa Drain - Key Facilities
Legend
Flow
Flow/Stage
Stage
Weir Location
Glenn County
Butte County
Sutter County

King 69/4


Glenn County
Butte County
Sutter County
Yolo County
CDR
Davis Weir
Legend
Flow
Flow/Stage
Stage
Weir Location
MBK
Colusa Drain - Key Facilities

King 69/5


Glenn County
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Colusa
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Legend
Flow
Flow/Stage
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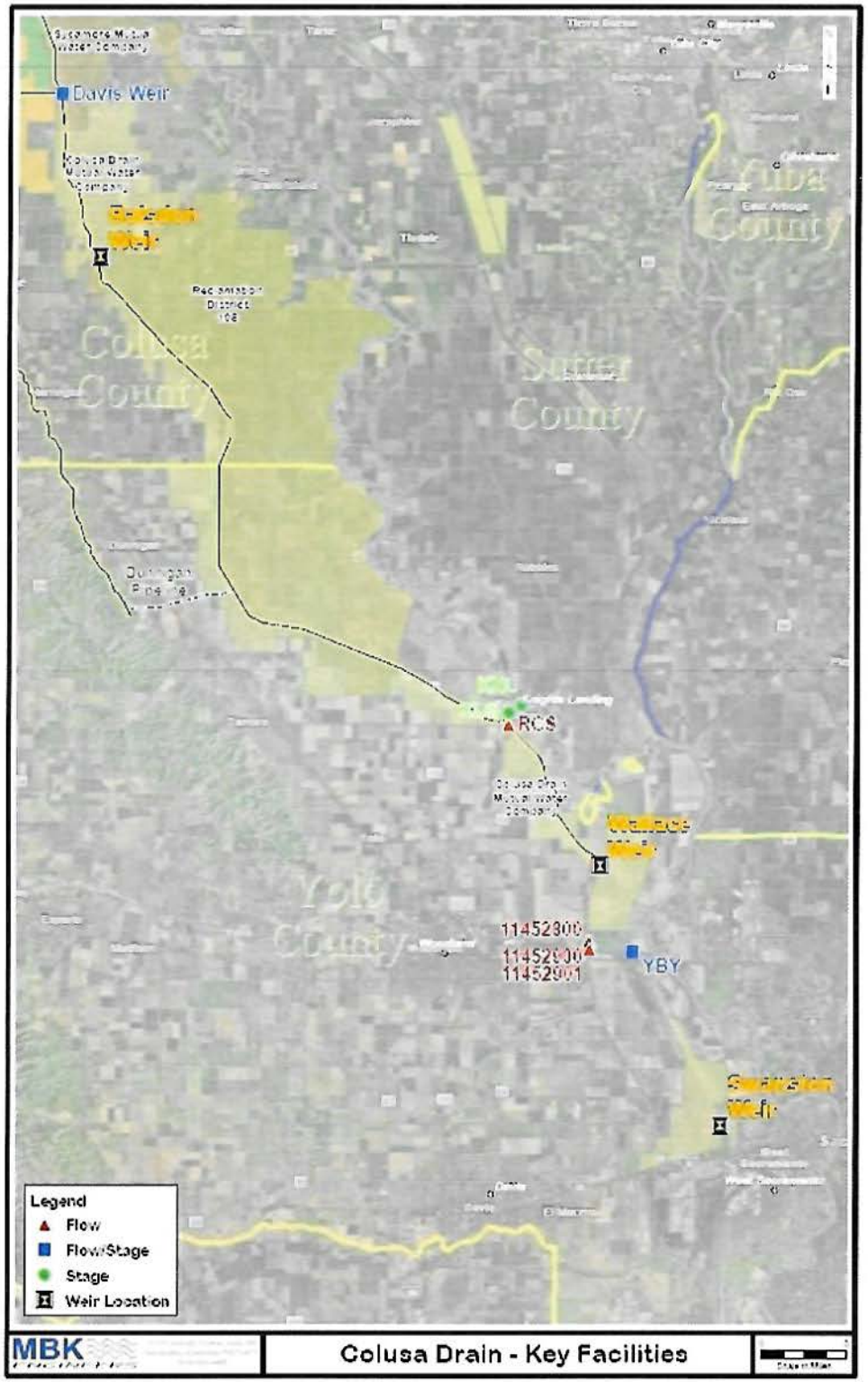
MBK
Colusa Drain - Key Facilities

King 69/6


Davis Weir
Colusa County
Sutter County
Yolo County
RCS
11452300
11452900
11452901
YBY
Legend
Flow
Flow/Stage
Stage
Weir Location
MBK
Colusa Drain - Key Facilities

Key Facilities Operational

- Colusa Basin Drain
  - Maxwell Dam
  - Colusa NW Refuge Weir
  - Davis Weir
  - Balsdon Weir
  - Knights Landing Outfall Gates (KLOG)
- Knights Landing Ridge Cut
  - Ridge Cut
  - Wallace Weir
- Tule Canal/Yolo Bypass
  - Swanston Weir
  - Lisbon Weir
  - Cache Slough

Key Facilities Measurement

- Colusa Drain at Highway 20
  - CDEC - Flow & Stage
- Colusa Drain at Davis Weir
  - GCID – Flow & Stage
- Colusa Drain at KLOG
  - CDEC – Stage & Gate Openings
- Sacramento River at Knights Landing
  - CDEC - Stage
- Knights Landing Ridge Cut
  - CDEC - Flow & Stage
- Wallace Weir ???
- Yolo Bypass near Woodland
  - CDEC - Flow & Stage

- 1953 between RD 2047 and
  - Glenn-Colusa ID
  - Provident ID
  - Princeton-Codora-Glenn ID
  - Compton-Delevan ID (now within GCID)
  - Jacinto ID (now within GCID)
- 1954 supplement adding Maxwell ID
- Each district contributes to the waters of the drains within RD 2047
- Recognizes water flowing in drains (including 2047 Main Drain) during summer months originates mainly from Sac River
- Parties agree that the districts may divert and use "any and all water" in the drains within its boundaries
  - Regardless of if the water originates from other parties

Sacramento River Settlement Contracts

- Executed ~ 1964 and renewed ~2004
- Recognition of 5 Party Agreement (and supplement)
- Reclamation maintains the right to return flow water derived from delivery under the SRSCs

Colusa Drain MWC – USBR Contract

- 1961 Reclamation protested several water right applications filed along Colusa Drain
- D-1045 and subsequent decisions led to the formation of the Colusa Drain Water Users Association in 1980
- CDWUA negotiated a supplemental water supply contract
- In 1987 CDMWC was formed and executed contract with Reclamation
- Allows the Company's shareholders to continue to divert and use water at specified times when their water rights are deemed to be deficient
- The contract allows the Company to obtain supplemental supplies from alternative sources
  - GCID has provided this alternative source in recent years

KING 69/12

- Operated by GCID
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Historic Operations of the Davis Weir

KMB 6/9/13

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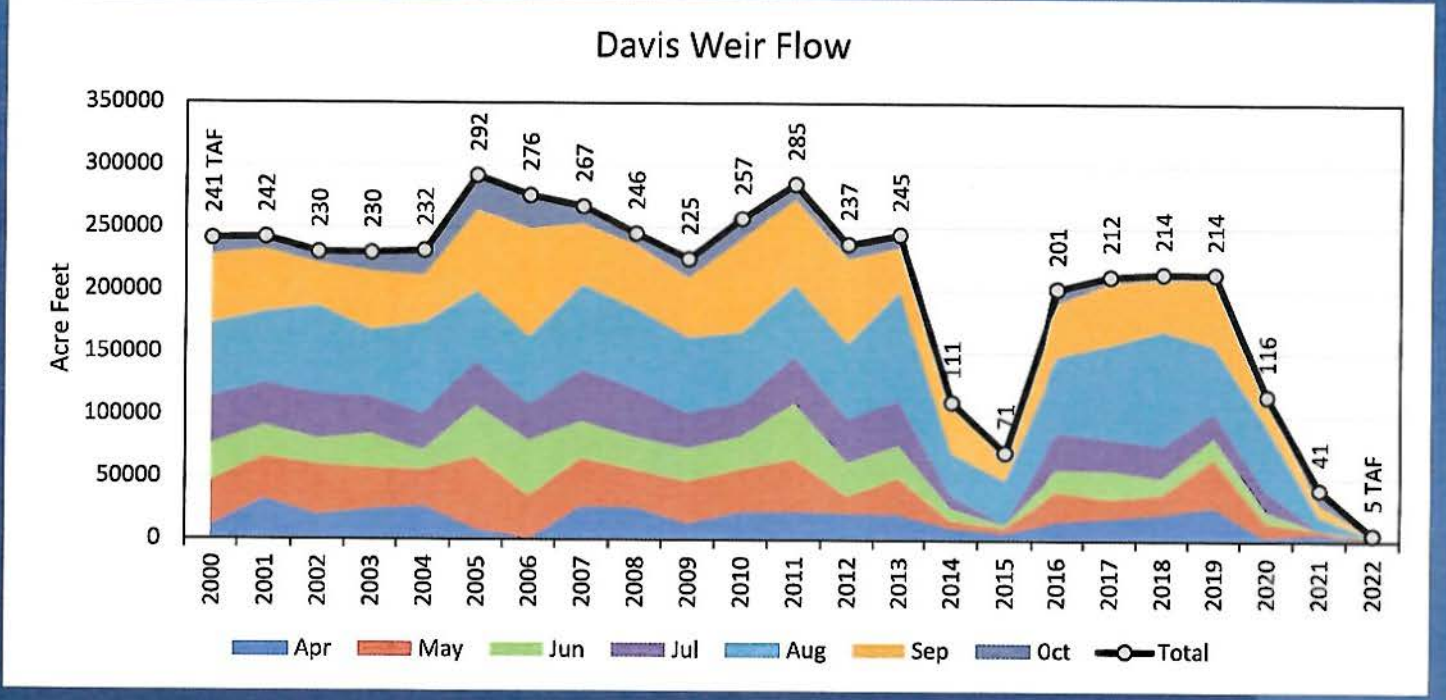

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KING 6/9/14

Recent/Future Colusa Drain Activities

- North Delta Flow Action
- Fish food programs
- Voluntary Agreements
- Sites Reservoir
- Monitoring
- Infrastructure

Other / Next Steps?

KING 69/16

Alicia Forsythe

From: Kyle Knutson <knutson@mbkengineers.com>
Sent: Tuesday, August 15, 2023 7:25 AM
To: Alicia Forsythe; JP Robinette
Cc: Anne Williams
Subject: Colusa Basin Drain Meeting

Hi Ali and JP,

As discussed, below are the participants (in addition to me, Anne and Gary of MBK) and the meeting agenda for our recent Colusa Basin Drain Manager's Meeting. We will keep you posted and make sure to include you both on the next meeting of this group, which will likely be in October.

1. Introductions
2. Background
    a. Map
    b. Water Rights, 5 Party Agreement, and Sac River Settlement Contracts
    c. CDMWC Agreement with USBR
    d. CDMWC/GCID Agreement
3. Historic operations
    a. Davis Weir
4. Recent/Future
    a. North Delta Flow Action
    b. Fish food programs
    c. Voluntary Agreements
    d. Sites Reservoir
    e. Monitoring
    f. Infrastructure
5. Other
6. Next Steps?

Lance Boyd – PID/PCGID
Matt Southam – Maxwell ID
Dan Griffith – Sycamore MWC
Jim Wallace - CDMWC
Doug McGeoghegan - CDMWC
Thad Bettner – GCID
Louis Jarvis – GCID
Greg Kryz – GCID
Jake Hancock – GCID
Bill Vanderwaal – RD 108 / Dunnigan WD
Mary Vanderwaal – Colusa Basin DD

Let me know if you have any questions.

Kyle

Kyle Knutson, P.E.

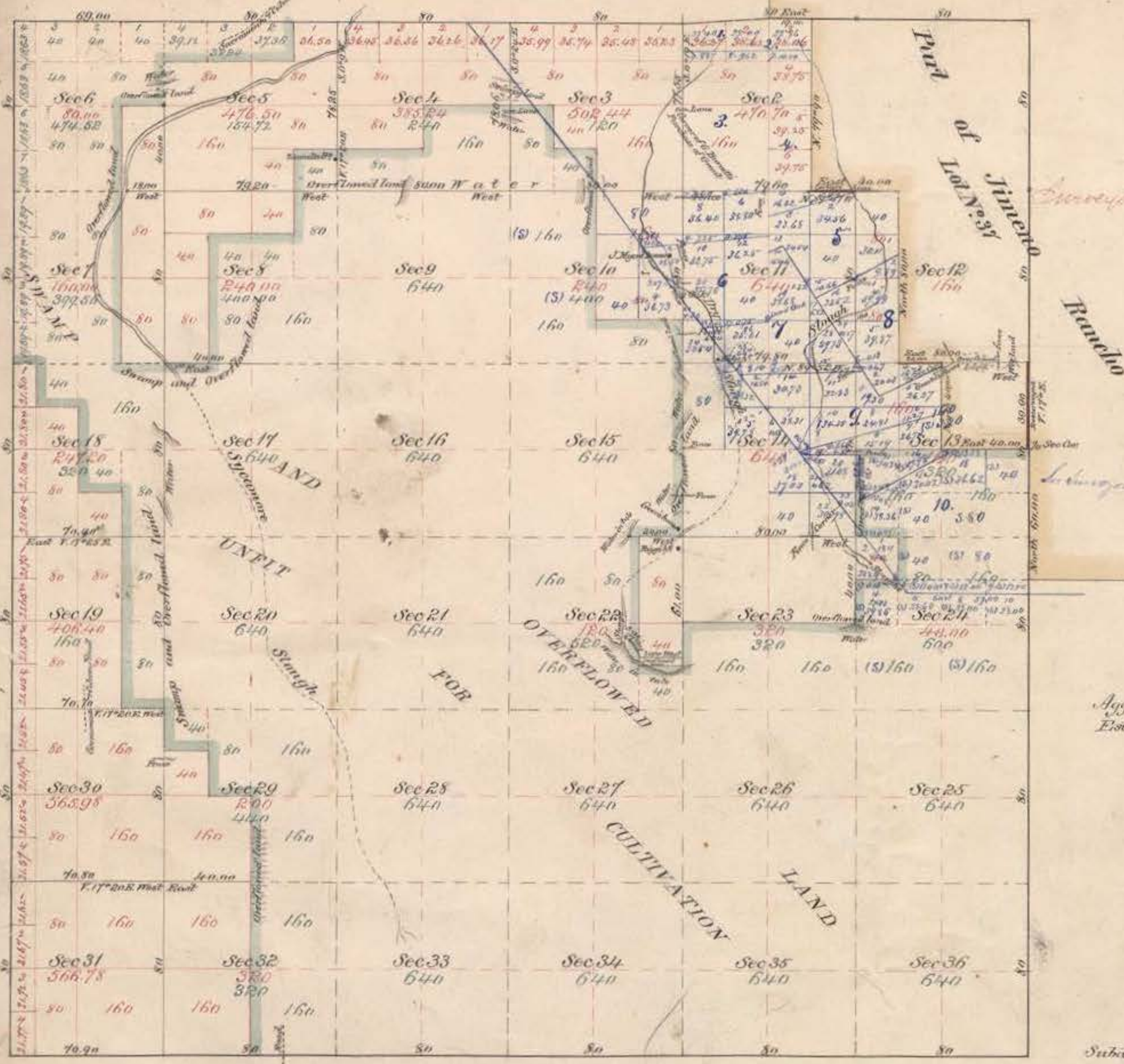
KING 69/17

MBK Engineers
455 University Avenue, Suite 100
Sacramento, CA 95825

Office: (916) 456-4400
Fax: (916) 456-0253

Township No. 14 North Range No. 1 West Mount Diablo Meridian

Surveys paid per G.L.O. Report No. 15837.



See Surveyor Gen.'s letter Dec. 29th 1869

Aggregate Area of Public land fit for cultivation 6.941.24 Acres
Estimated Area of Lot No. 37 and swamp and Overflowed land 15.580.00 "
Aggregate 22.521.24 "

Subdivision lines not otherwise noted, run at a Variation of 17° East

Surveys Designated	By Whom Surveyed	Date of Contract	Amount of Surveys	When Surveyed
East boundary of Township	F. R. Loring	September 26th 1851	————	1851
Rest of Township lines	F. R. Conway	January 29th 1853	————	1853
Exterior boundaries of Lot No. 37	O. P. Sutton	Instructions ————	————	1861
Part of East boundary of Township colored brown, Resurveyed	James Balsdon	May 15th 1867	0 Miles 39 Chs 90 lks	1867
Section lines, Ranch boundaries colored brown, included	" "	" " "	24 " 67 " 86 "	May 24th 1867

The above Map of Township No. 14 North, Range No. 1 West, Mount Diablo Meridian is strictly conformable to the field notes of the Surveys thereof on file in this Office which have been examined and approved
Surveyor General's Office
San Francisco, California
September 11th 1867

L. Upson
Surveyor Genl. Cal.

A full true and correct Copy of the Original Map on file in this Office
Surveyor General's Office
San Francisco, California
November 19th 1868

Sherman Day
Surr. Genl. Cal.

COLUSA COUNTY,

CALIFORNIA.

ILLUSTRATIONS

DESCRIPTIVE OF ITS SCENERY,

FINE RESIDENCES, PUBLIC BUILDINGS, MANUFACTORIES, HOTELS,

FARM SCENES,

BUSINESS HOUSES, SCHOOLS, CHURCHES, MINES, MILLS, ETC.

From Original Drawings by Artists of the Highest Ability.

WITH HISTORICAL SKETCH OF THE COUNTY.

ELLIOTT & MOORE,
PUBLISHERS.
SAN FRANCISCO, CALIFORNIA.
1880

Yours truly,
Wall S. Green

THE RESOURCES AGENCY OF CALIFORNIA

Department of Water Resources

BULLETIN No. 109

COLUSA BASIN INVESTIGATION

MAY 1964

HUGO FISHER
Administrator
The Resources Agency of California

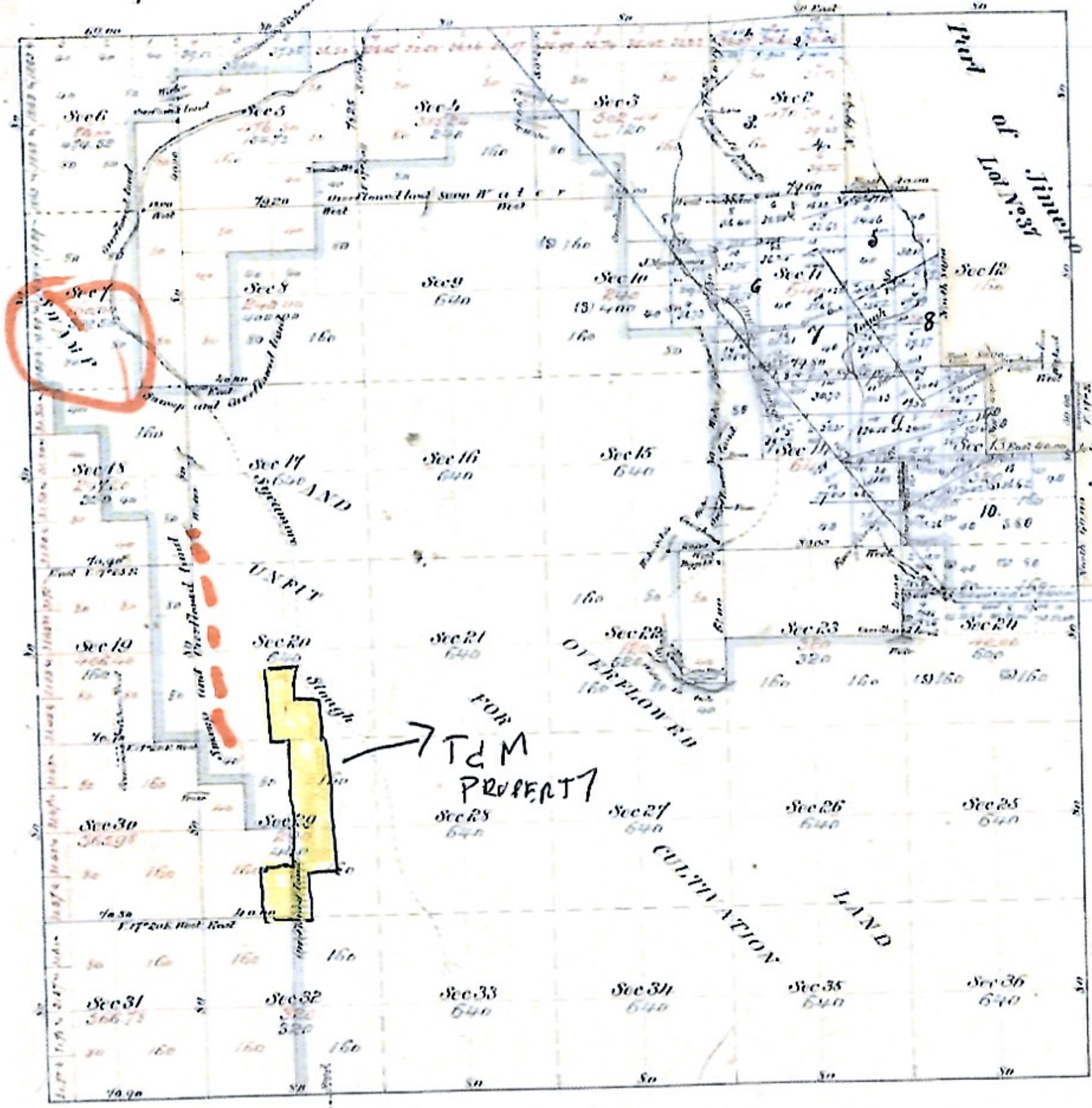
EDMUND G. BROWN
Governor
State of California

WILLIAM E. WARNE
Director
Department of Water Resources

WR EXHIBIT C2

SITES EXHIBIT 4
KING 1867 STATE SURVEYOR MAP.

Township No. 14 North Range No. 1 West Mount Diablo Meridian



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Exterior boundaries of Lot No. 37	O. P. Sutton	Instructions ———		———		1861
Part of East boundary of Township, retraced, re-surveyed	James Balsdon	May 15th	1867	9 Miles 38 Chs 9 Lks		1867
Section lines, Rancho boundaries retraced, meandered	" "	" "	"	24 " 67 " 36 "	May 24th	1867

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September 11th 1867

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A full true and correct Copy of the Original Map
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SITES EXHIBIT 3 EXCERPT

WR EXHIBIT C1A

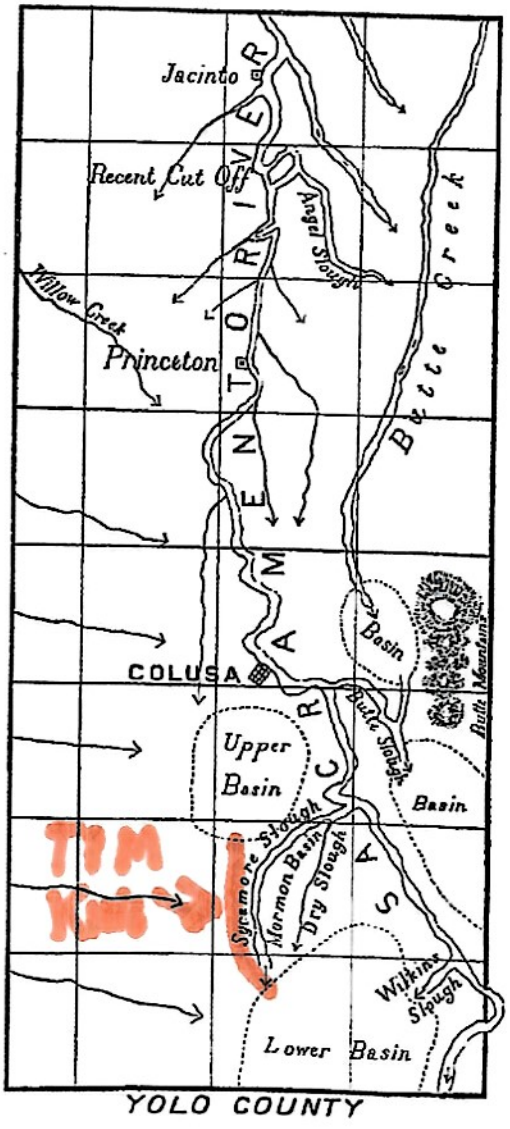
RECLAMATION IN COLUSA COUNTY.

First Attempts, The "Trough," Reclamation Districts, Swamp Lands, Park's Dam, Sloughs, etc.

THE WEST SIDE.

As we have stated in a preceding article, the Sacramento river, below Jacinto runs on a ridge, and the overflow, either through sloughs or crevasses, or over the banks, finds its way back from two to five miles where the slope of the valley down from the mountains meets the slope from the river, and forms at the upper end a "trough" and at the lower end a "basin." There is a regular fall to this upper "trough" so that the water passes off, the greater portion of it, as soon as it quits running into it. The water from the foot-hills, as we have seen, also runs into this trough. Two miles south of the town of Colusa the trough widens out and the fall ceases for some four miles and there is a basin covering some sixteen square miles of the very finest land in the world on which *tule* formerly grew. Sycamore slough putting out of the river six miles below Colusa, runs in a south-westerly direction for some six miles turns then to the south and in five miles more is lost in the *tules* of the lower basin. As the slough forms for itself a ridge it cuts the basin in two leaving a narrow passage to the west for the overflow from above to pass down the valley. The reader will understand now that there is a small basin above Sycamore slough and a much larger one into which it empties, lying between that and Knight's Landing; the major portion of which is in Yolo county. To afford a better understanding of the subject matter we have drawn the accompanying skeleton map of the river and the various sloughs putting out of it, together with those crossing into the trough from the foot-hills, showing the several basins the reclamation of which have been attempted.

SKELETON MAP, SHOWING THE NATURAL OVERFLOW OF FLOOD WATERS OF THE SACRAMENTO RIVER, AND THE MOUNTAIN STREAMS EMPTYING INTO "THE TROUGH."



THE MORMON BASIN.

The first effort at reclamation, to speak of, was made by the owners of land in what is known as the Mormon Basin about the year 1867. This basin lies between Sycamore and Dry sloughs. The latter, as will be seen by the above sketch, runs out of the river a short distance below its head and comes near it again in about eight miles, forming the chord to the arc described by the Sycamore. As all sloughs form for themselves ridges it must follow that there is a basin between these two. The high land along each slough being settled first, and mostly fenced, there was a common field between them which on this account came to be called the "Mormon basin," and not that any Mormon ever owned a foot of land in it. When the land came to be taken up, the parties saw how easy it would be to keep the water out by leveeing the banks of the sloughs, at the lower ends; for the upper end of each slough was high already—in fact no water has ever run through Dry slough from the upper end since the settlement of the county, except on one or

SITES EXHIBIT 16 EXERPT
DWR COLUSA BASIN INVESTIGATION.

K16/25

building up of the banks of the river from sediments deposited as the water overflowed its natural channel. The heavier and larger sediments carried by these flood flows were deposited on the banks and near the main channel while the finer, smaller particles were carried considerably further from the main channel. The slope of the ground away from the main channel is relatively steep and gradually flattens towards the center portions of the basins, which are generally 6 to 20 feet lower than the river banks.

During seasons of heavy rainfall, and before the present system of levees in the Sacramento Valley was constructed, the flood basins or troughs were filled by runoff from the adjacent plains and hills, and by water from the main river flowing over the banks. The basins usually discharged through sloughs, either back into the main channel, or into the next lower flood basin. In times of great prolonged floods, these basins performed a dual function, acting both as large shallow flood water channels and as temporary storage or equalizing reservoirs that reduced the peak of the floods. The basins would remain full of water until the river receded to a stage that would allow the basins to drain.

Colusa Basin

The Colusa Basin is one of two major basins lying west of the Sacramento River. The Yolo Basin, located southerly of the Colusa Basin, is separated from the Colusa Basin by the Knights Landing Ridge. This ridge was formed by sediments from Cache Creek deposited in a manner similar to those deposited by the Sacramento River. The Colusa Basin extends over portions of the counties of Glenn, Colusa, and Yolo. The exact limits of the Colusa Basin are not precisely defined, but generally include those lower lands that may be covered by flood water. The Colusa Basin has an overall length of approximatel 70 miles and a maximum width of about eight miles. It is divided into an upper

T&M KING LAND

T&M KING LAND K16/26

and lower basin by a small ridge created by the sedimentary deposits from Upper Sycamore Slough. The upper basin is a comparatively narrow tract of land, generally not more than four miles in width.

Colusa Basin Drainage Area

The drainage area of the Colusa Basin extends from the Sacramento River on the east to the crest of the foothills on the west. Stony Creek and Cache Creek are the approximate northerly and southerly boundaries, respectively. The Colusa Basin drainage area, identified on Plate 1, includes about 1700 square miles. Plate 2, "Irrigated and Irrigable Lands, 1954-56" shows the location of the agricultural lands within this area. Water agencies serving the area are shown on Plate 3, "Principal Irrigation Water Service Agencies and Proposed Water Service Areas." The physical works of the water agencies and the various reclamation and levee districts located within the area are important factors in the agricultural economy of the Colusa Basin. The various reclamation and levee districts are shown on Plate 4, "Reclamation and Levee Districts."


DAVIS WEIR
BLADDER DAM
MAY 14
2024


DAVIS Weir
MAY 14
2024

DAVIS WEIR

BLADDER DAM


HAHN RD
BRIDGE
COLUSA BASIN DRAIN
MAY 14
2024

HAHN RD
BRIDGE
COLUSA BASIN DRAIN

MAY 14
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